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CIS Congressional Information Service Washington D C

101ST CONGRESS
*1st Session*

SENATE

TREATY DOC.
101-6

# COUNCIL OF EUROPE-OECD CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS

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## MESSAGE

FROM

# THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A CONVENTION NEGOTIATED BY THE MEMBER STATES OF THE COUNCIL OF EUROPE AND THE ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD), ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS, DONE AT STRASBOURG, JANUARY 25, 1988, AND SIGNED BY THE UNITED STATES IN PARIS ON JUNE 28, 1989

NOVEMBER 8, 1989.—Convention was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

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U.S. GOVERNMENT PRINTING OFFICE

39-118 WASHINGTON : 1989

S385-6.

## LETTER OF TRANSMITTAL

THE WHITE HOUSE, *November 8, 1989.*

*To the Senate of the United States:*

I transmit herewith for Senate advice and consent to ratification a Convention on Mutual Administrative Assistance in Tax Matters, among the member States of the Council of Europe and the Organization for Economic Co-operation and Development (OECD), done at Strasbourg, January 25, 1988, and signed by the United States in Paris on June 28, 1989. I also transmit the report of the Department of State on the convention.

Under the convention, Parties will exchange information for the assessment, recovery, and enforcement of tax(es) and tax claims, and to assist in the prosecution of a taxpayer. The United States will exchange information on taxes on income or profits, capital gains, or net wealth imposed by the Federal Government and, in keeping with the U.S. Model Treaty, will not exchange information on State or local taxes.

The taxpayer protections available under the convention are at least as extensive as under the U.S. Model Treaty. Information provided by the United States to another party may not be released to a third party without U.S. consent.

The convention also provides for assistance in the recovery of taxes and for assistance in service of documents. The United States has chosen to reserve on these provisions, in accordance with the option available to all Signatories.

I recommend the Senate give early and favorable consideration to the convention and give its advice and consent to ratification.

GEORGE BUSH.

## LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
*Washington, October 24, 1989.*

The PRESIDENT,
*The White House.*

THE PRESIDENT: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, a Convention negotiated by the member States of the Council of Europe and the Organization for Economic Co-operation and Development (OECD), on Mutual Administrative Assistance in Tax Matters, done at Strasbourg, January 25, 1988, and signed by the United States in Paris on June 28, 1989.

The Convention is the first multilateral tax treaty of its kind, and is open to ratification, acceptance, or approval by any of the member States of the Council of Europe or the OECD. It shall enter into force three months after five States have expressed their consent to be bound by its provisions. The provisions of the Convention are consistent with those of the U.S. Model Tax Treaty and with other tax treaties currently in force for the U.S.

Under the Convention, the Parties will exchange information for the assessment, recovery, and enforcement of tax(es) and tax claims, and to assist in the prosecution of a taxpayer. Like information exhange under the U.S. Model Treaty, information exchange under the Convention is not limited to cases of suspected tax evasion.

The Convention applies inter alia, to taxes on income or profits, taxes on capital gains, and taxes on net wealth imposed on behalf of a Party. Consistent with the U.S. Model Treaty, the United States will exchange information only on taxes imposed by the Federal government, and will not exchange information on state or local taxes.

The taxpayer protections available under the Convention are at least as extensive as those available under the U.S. Model Treaty. Information provided by the United States to another party may not be released to a third party without U.S. consent. Neither the OECD, the Council of Europe, nor any other international organization would have access to the taxpayer information.

Section II of the Convention provides for assistance in the recovery of taxes, but permits member States to reserve on these provisions. The United States intends to reserve on these provisions because the U.S. competent tax authority has not made use of the broad collection assistance provisions in four existing tax treaties which contain them.

Section III of the Convention provides for assistance in service of documents, but again permits States to reserve on this provision. The United States intends to do so on assistance in service of documents, as documents may be and are generally served by mail in the United States. No assistance by the United States is needed. The United States will, however, not reserve on Paragraph Three of this Section, which affirms access by any Party to the postal system of any other Party for the service of documents.

A technical memorandum explaining in detail the provisions of the Convention is being prepared by the Department of the Treasury and will be submitted separately to the Senate Committee on Foreign Relations.

The Department of the Treasury, with the cooperation of the Department of State, was primarily responsible for the negotiation of the Convention.

Respectfully submitted,

JAMES A. BAKER III.

# Convention on Mutual Administrative Assistance in Tax Matters

## PREAMBLE

The member States of the Council of Europe and the Member countries of the Organisation for Economic Co-operation and Development (OECD), signatories of this Convention.

Considering that the development of international movement of persons, capital, goods and services—although highly beneficial in itself—has increased the possibilities of tax avoidance and evasion and therefore requires increasing co-operation among tax authorities;

Welcoming the various efforts made in recent years to combat tax avoidance and tax evasion on an international level, whether bilaterally or multilaterally;

Considering that a co-ordinated effort between States is necessary in order to foster all forms of administrative assistance in matters concerning taxes of any kind whilst at the same time ensuring adequate protection of the rights of taxpayers;

Recognising that international co-operation can play an important part in facilitating the proper determination of tax liabilities and in helping the taxpayer to secure his rights;

Considering that fundamental principles entitling every person to have his rights and obligations determined in accordance with a proper legal procedure should be recognized as applying to tax matters in all States and that States should endeavour to protect the legitimate interests of taxpayers, including appropriate protection against discrimination and double taxation;

Convinced therefore that States should not carry out measures or supply information except in conformity with their domestic law and practice, having regard to the necessity of protecting the confidentiality of information, and taking account of international instruments for the protection of privacy and flows of personal data;

Desiring to conclude a convention on mutual administrative assistance in tax matters;

Have agreed as follows;

## CHAPTER I

### SCOPE OF THE CONVENTION

### Article 1

*Object of the Convention and persons covered*

1. The Parties shall, subject to the provisions of Chapter IV, provide administrative assistance to each other in tax matters. Such

assistance may involve, where appropriate, measures taken by judicial bodies.

2. Such administrative assistance shall comprise:

*a.* exchange of information, including simultaneous tax examinations and participation in tax examinations abroad;

*b.* assistance in recovery, including measures of conservancy; and

*c.* service of documents.

3. A Party shall provide administrative assistance whether the person affected is a resident or national of a Party or of any other State.

Article 2

*Taxes covered*

1. This Convention shall apply;

*a.* to the following taxes:

i. taxes on income or profits,

ii. taxes on capital gains which are imposed separately from the tax on income or profits,

iii. taxes on net wealth, imposed on behalf of a Part; and

*b.* to the following taxes;

i. taxes on income, profits, capital gains or net wealth which are imposed on behalf of political subdivisions or local authorities of a Party,

ii. compulsory social security contributions payable to general government or to social security institutions established under public law, and

iii. taxes in other categories, except customs duties, imposed on behalf of a Party, namely;

A. estate, inheritance or gift taxes,

B. taxes on immovable property,

C. general consumption taxes, such as value-added or sales taxes,

D. specific taxes on goods and services such as excise taxes,

E. taxes on the use or ownerhip of motor vehicles,

F. taxes on the use or ownership of movable property other an motor vehicles,

G. any other taxes;

iv. taxes in categories referred to in sub-paragraph (iii) above which are imposed on behalf of political sub-divisions or local authorities of a Party.

2. The existing taxes to which the Convention shall apply are listed in Annex A in the categories referred to in paragraph 1.

3. The Parties shall notify the Secretary General of the Council of Europe or the Secretary General of OECD (hereinafter referred to as the "Depositaries") of any change to be made to Annex A as a result of a modification of the list mentioned in paragraph 2. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

4. The Convention shall also apply, as from their adoption, to any identical or substantially similar taxes which are imposed in a Contracting State after the entry into force of the Convention in respect of that Party in addition to or in place of the existing taxes listed in Annex A and, in that event, the Party concerned shall notify one of the Depositaries of the adoption of the tax in question.

## CHAPTER II

### GENERAL DEFINITIONS

### Article 3

*Definitions*

1. For the purposes of this Convention, unless the context otherwise requires:

*a.* the terms "applicant State" and "requested State" mean respectively any Party applying for administrative assistance in tax matters and any Party requested to provide such assistance;

*b.* the term "tax" means any tax or social security contribution to which the Convention applies pursuant to Article 2;

*c.* the term "tax claim" means any amount of tax, as well as interest thereon, related administrative fines and costs incidental to recovery, which are owed and not yet paid;

*d.* the term "competent authority" means the persons and authorities listed in Annex B;

*e.* the term "nationals", in relation to a Party, means;

i. all individuals possessing the nationality of that Party, and

ii. all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in that Party.

For each Party that has made a declaration for that purpose, the terms used above will be understood as defined in Annex C.

2. As regards the application of the Convention by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that Party concerning the taxes covered by the Convention.

3. The Parties shall notify one of the Depositaries of any change to be made to Annexes B and C. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary in question.

## CHAPTER III

### FORMS OF ASSISTANCE

### SECTION I

### *Exchange of information*

### Article 4

#### *General provision*

1. The Parties shall exchange any information, in particular as provided in this Section, that is foreseeably relevant to:

*a.* the assessment and collection of tax, and the recovery and enforcement of tax claims, and

*b.* the prosecution before an administrative authority or the initiation of prosecution before a judicial body.

Information which is unlikely to be relevant to these purposes shall not be exchanged under this Convention.

2. A Party may use information obtained under this Convention as evidence before a criminal court only if prior authorisation has been given by the Party which has supplied the information. However, any two or more Parties may mutually agree to waive the condition of prior authorisation.

3. Any Party may, by a declaration addressed to one of the Depositaries, indicate that, according to its internal legislation, its authorities may inform its resident or national before transmitting information concerning him, in conformity with Articles 5 and 7.

### Article 5

#### *Exchange of information on request*

1. At the request of the applicant State, the requested State shall provide the applicant State with any information referred to in Article 4 which concerns particular persons or transactions.

2. If the information available in the tax files of the requested State is not sufficient to enable it to comply with the request for information, that State shall take all relevant measures to provide the applicant State with the information requested.

### Article 6

#### *Automatic exchange of information*

With respect to categories of cases and in accordance with procedures which they shall determine by mutual agreement, two or more Parties shall automatically exchange the information referred to in Article 4.

### Article 7

#### *Spontaneous exchange of information*

1. A Party shall, without prior request, forward to another Party information of which it has knowledge in the following circumstances:

*a.* the first-mentioned Party has grounds for supposing that there may be a loss of tax in the other Party;

*b.* a person liable to tax obtains a reduction in or an exemption from tax in the first-mentioned Party which would give rise to an increase in tax or to liability to tax in the other Party;

*c.* business dealings between a person liable to tax in a Party and a person liable to tax in another Party are conducted through one or more countries in such a way that a saving in tax may result in one or the other Party or in both;

*d.* a Party has grounds for supposing that a saving of tax may result from artificial transfers of profits within groups of enterprises;

*e.* information forwarded to the first-mentioned Party by the other Party has enabled information to be obtained which may be relevant in assessing liability to tax in the latter Party.

2. Each Party shall take such measures and implement such procedures as are necessary to ensure that information described in paragraph 1 will be made available for transmission to another Party.

## Article 8

### *Simultaneous tax examinations*

1. At the request of one of them, two or more Parties, shall consult together for the purposes of determining cases and procedures for simultaneous tax examinations. Each Party involved shall decide whether or not it wishes to participate in a particular simultaneous tax examination.

2. For the purposes of this Convention, a simultaneous tax examination means an arrangement between two or more Parties to examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.

## Article 9

### *Tax examination abroad*

1. At the request of the competent authority of the applicant State, the competent authority of the requested State may allow representatives of the competent authority of the applicant State to be present at the appropriate part of a tax examination in the requested State.

2. If the request is acceded to, the competent authority of the requested State shall, as soon as possible, notify the competent authority of the applicant State about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the requested State for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the requested State.

3. A Party may inform one of the Depositaries of its intention not to accept, as a general rule, such requests as are referred to in paragraph 1. Such a declaration may be made or withdrawn at any time.

Article 10

*Conflicting information*

If a Party receives from another Party information about a person's tax affairs which appears to it to conflict with information in its possession, it shall so advise the Party which has provided the information.

SECTION II

*Assistance in recovery*

Article 11

*Recovery of tax claims*

1. At the request of the applicant State, the requested State shall, subject to the provisions of Articles 14 and 15, take the necessary steps to recover tax claims of the first-mentioned State as if they were its own tax claims.

2. The provision of paragraph 1 shall apply only to tax claims which form the subject of an instrument permitting their enforcement in the applicant State and, unless otherwise agreed between the Parties concerned, which are not contested.

However, where the claim is against a person who is not a resident of the applicant State, paragraph 1 shall only apply, unless otherwise agreed between the Parties concerned, where the claim may no longer be contested.

3. The obligation to provide assistance in the recovery of tax claims concerning a deceased person or his estate, is limited to the value of the estate or of the property acquired by each beneficiary of the estate, according to whether the claim is to be recovered from the estate or from the beneficiaries thereof.

Article 12

*Measures of conservancy*

At the request of the applicant State the requested State shall, with a view to the recovery of an amount of tax, take measures of conservancy even if the claim is contested or is not yet the subject of an instrument permitting enforcement.

Article 13

*Documents accompanying the request*

1. The request for administrative assistance under this Section shall be accompanied by:

a. a declaration that the tax claim concerns a tax covered by the Convention and, in the case of recovery that, subject to

paragraph 2 of Article 11, the tax claim is not or may not be contested.

*b.* an official copy of the instrument permitting enforcement in the applicant State, and

*c.* any other document required for recovery or measures of conservancy.

2. The instrument permitting enforcement in the applicant State shall, where appropriate and in accordance with the provisions in force in the requested State, be accepted, recognised, supplemented or replaced as soon as possible after the date of the receipt of the request for assistance, by an instrument permitting enforcement in the latter State.

Article 14

*Time limits*

1. Questions concerning any period beyond which a tax claim cannot be enforced shall be governed by the law of the applicant State. The request for assistance shall give particulars concerning that period.

2. Acts of recovery carried out by the requested State in pursuance of a request for assistance, which, according to the laws of that State, would have the effect of suspending or interrupting the period mentioned in paragraph 1, shall also have this effect under the laws of the applicant State. The requested State shall inform the applicant State about such acts.

3. In any case, the requested State is not obliged to comply with a request for assistance which is submitted after a period of 15 years from the date of the original instrument permitting enforcement.

Article 15

*Priority*

The tax claim in the recovery of which assistance is provided shall not have in the requested State any priority specially accorded to the tax claims of that State even if the recovery procedure used is the one applicable to its own tax claims.

Article 16

*Deferral of payment*

The requested State may allow deferral of payment or payment by instalments if its laws or administrative practice permit it to do so in similar circumstances, but shall first inform the applicant State.

## Section III

*Service of documents*

### Article 17

*Service of documents*

1. At the request of the applicant State, the requested State shall serve upon the addressee documents, including those relating to judicial decisions, which emanate from the applicant State and which relate to a tax covered by this Convention.

2. The requested State shall effect service of documents:

*a.* by a method prescribed by its domestic laws for the service of documents of a substantially similar nature;

*b.* to the extent possible, by a particular method requested by the applicant State or the closest to such method available under its own laws.

3. A Party may effect service of documents directly through the post on a person within the territory of another Party.

4. Nothing in the Convention shall be construed as invalidating any service of documents by a Party in accordance with its laws.

5. When a document is served in accordance with this Article, it need not be accompanied by a translation. However, where it is satisfied that the addressee cannot understand the language of the document, the requested State shall arrange to have it translated into or a summary drafted in its or one of its official languages. Alternatively, it may ask the applicant State to have the document either translated into or accompanied by a summary in one of the official languages of the requested State, the Council of Europe or the OECD.

## CHAPTER IV

### PROVISIONS RELATING TO ALL FORMS OF ASSISTANCE

### Article 18

*Information to be provided by the applicant State*

1. A request for assistance shall indicate where appropriate:

*a.* the authority or agency which initiated the request made by the competent authority;

*b.* the name, address and any other particulars assisting in the identification of the person in respect of whom the request is made;

*c.* in the case of a request for information, the form in which the applicant State wishes the information to be supplied in order to meet its needs;

*d.* in the case of a request for assistance in recovery or measures of conservancy, the nature of the tax claim, the components of the tax claim and the assets from which the tax claim may be recovered;

*e.* in the case of a request for service of documents, the nature and the subject of the document to be served;

*f.* whether it is in conformity with the law and administrative practice of the applicant State and whether it is justified in the light of the requirements of Article 19.

2. As soon as any other information relevant to the request for assistance comes to its knowledge, the applicant State shall forward it to the requested State.

Article 19

*Possibility of declining a request*

The requested State shall not be obliged to accede to a request if the applicant State has not pursued all means available in its own territory, except where recourse to such means would give rise to disproportionate difficulty.

Article 20

*Response to the request for assistance*

1. If the request for assistance is complied with, the requested State shall inform the applicant State of the action taken and of the result of the assistance as soon as possible.

2. If the request is declined, the requested State shall inform the applicant State of that decision and the reason for it as soon as possible.

3. If, with respect to a request for information, the applicant State has specified the form in which it wishes the information to be supplied and the requested State is in a position to do so, the requested State shall supply it in the form requested.

Article 21

*Protection of persons and limits to the obligation to provide assistance*

1. Nothing in this Convention shall affect the rights and safeguards secured to persons by the laws or administrative practice of the requested State.

2. Except in the case of Article 14, the provisions of this Convention shall not be construed so as to impose on the requested State the obligation:

*a.* to carry out measures at variance with its own laws or administrative practice or the laws or administrative practice of the applicant State;

*b.* to carry out measures which it considers contrary to public policy (ordre public) or to its essential interests;

*c.* to supply information which is not obtainable under its own laws or its administrative practice or under the laws of the applicant State or its administrative practice;

*d.* to supply information which would disclose any trade, business, industrial, commercial or professional secret, or trade process, or information the disclosure of which would be contrary to public policy (ordre public) or to its essential interests;

*e.* to provide administrative assistance if and insofar as it considers the taxation in the applicant State to be contrary to

generally accepted taxation principles or to the provisions of a convention for the avoidance of double taxation, or of any other convention which the requested State has concluded with the applicant State;

*f.* to provide assistance if the application of this Convention would lead to discrimination between a national of the requested State and nationals of the applicant State in the same circumstances.

Article 22

*Secrecy*

1. Any information obtained by a Party under this Convention shall be treated as secret in the same manner as information obtained under the domestic laws of that Party, or under the conditions of secrecy applying in the supplying Party if such conditions are more restrictive.

2. Such information shall in any case be disclosed only to persons or authorities (including courts and administrative or supervisory bodies) involved in the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes of that Party. Only the persons or authorities mentioned above may use the information and then only for such purposes. They may, notwithstanding the provisions of paragraph 1, disclose it in public court proceedings or in judicial decisions relating to such taxes, subject to prior authorisation by the competent authority of the supplying Party. However, any two or more Parties may mutually agree to waive the condition of prior authorisation.

3. If a Party has made a reservation provided for in sub-paragraph *a.* of paragraph 1 of article 30 any other Party obtaining information from that Party shall not use it for the purpose of a tax in a category subject to the reservation. Similarly, the Party making such a reservation shall not use information obtained under this Convention for the purpose of a tax in a category subject to the reservation.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3, information received by a Party may be used for other purposes when such information may be used for such other purposes under the laws of the supplying Party and the competent authority of that Party authorises such use. Information provided by a Party to another Party may be transmitted by the latter to a third Party, subject to prior authorisation by the competent authority of the first-mentioned Party.

Article 23

*Proceedings*

1. Proceedings relating to measures taken under this Convention by the requested State will be brought only before the appropriate body of that State.

2. Proceedings relating to measures taken under this Convention by the applicant State, in particular those which, in the field of re-

covery, concern the existence or the amount of the tax claim or the instrument permitting its enforcement, shall be brought only before the appropriate body of that State. If such proceedings are brought, the applicant State shall inform the requested State which shall suspend the procedure pending the decision of the body in question. However, the requested State shall, if asked by the applicant State, take measures of conservancy to safeguard recovery. The requested State can also be informed of such proceedings by any interested person. Upon receipt of such information the requested State shall consult on the matter, if necessary, with the applicant State.

3. As soon as a final decision in the proceedings has been given, the requested State or the applicant State, as the case may be, shall notify the other State of the decision and the implications which it has for the request for assistance.

## CHAPTER V

### SPECIAL PROVISIONS

### Article 24

*Implementation of the Convention*

1. The Parties shall communicate with each other for the implementation of this Convention through their respective competent authorities. The competent authorities may communicate directly for this purpose and may authorize subordinate authorities to act on their behalf. The competent authorities of two or more Parties may mutually agree on the mode of application of the Convention among themselves.

2. Where the requested State considers that the application of this Convention in a particular case would have serious and undesirable consequences, the competent authorities of the requested and of the applicant State shall consult each other and endeavor to resolve the situation by mutual agreement.

3. A co-ordinating body composed of representatives of the competent authorities of the Parties shall monitor the implementation and development of this Convention, under the aegis of the OECD. To that end, the co-ordinating body shall recommend any action likely to further the general aims of the Convention. In particular it shall act as a forum for the study of new methods and procedures to increase international co-operation in tax matters and, where appropriate, it may recommend revisions or amendments to the Convention. States which have signed but not yet ratified, accepted or approved the Convention are entitled to be represented at the meetings of the co-ordinating body as observers.

4. A Party may ask the co-ordinating body to furnish opinions on the interpretation of the provisions of the Convention.

5. Where difficulties or doubts arise between two or more Parties regarding the implementation or interpretation of the Convention, the competent authorities of those Parties shall endeavour to resolve the matter by mutual agreement. The agreement shall be communicated to the co-ordinating body.

6. The Secretary General of OECD shall inform the Parties and the Signatory States which have not yet ratified, accepted or approved the Convention, of opinions furnished by the co-ordinating body according to the provisions of paragraph 4 above and of mutual agreements reached under paragraph 5 above.

Article 25

*Language*

Requests for assistance and answers thereto shall be drawn up in one of the official languages of the OECD and of the Council of Europe or in any other language agreed bilaterally between the Contracting States concerned.

Article 26

*Costs*

Unless otherwise agreed bilaterally by the Parties concerned:

*a.* ordinary costs incurred in providing assistance shall be borne by the requested State;

*b.* extraordinary costs incurred in providing assistance shall be borne by the applicant State.

## CHAPTER VI

### FINAL PROVISIONS

Article 27

*Other international agreements or arrangements*

1. The possibilities of assistance provided by this Convention do not limit, nor are they limited by, those contained in existing or future international agreements or other arrangements between the Parties concerned or other instruments which relate to co-operation in tax matters.

2. Notwithstanding the rules of the present Convention, those Parties which are members of the European Economic Community shall apply in their mutual relations the common rules in force in that Community.

Article 28

*Signature and entry into force of the Convention*

1. This Convention shall be open for signature by the member States of the Council of Europe and the Member countries of OECD. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with one of the Depositaries.

2. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five States have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1.

3. In respect of any member State of the Council of Europe or any Member country of OECD which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 29

*Territorial application of the Convention*

1. Each State may, at the time of signature, or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply.

2. Any State may, at any later date, by a declaration addressed to one of the Depositaries, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Depositary.

3. Any declaration made under either of the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to one of the Depositaries. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

Article 30

*Reservations*

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval or at any later date, declare that it reserves the right:

*a.* not to provide any form of assistance in relation to the taxes of other Parties in any of the categories listed in subparagraph (b) of paragraph 1 of Article 2, provided that it has not included any domestic tax in that category under Annex A of the Convention;

*b.* not to provide assistance in the recovery of any tax claim, or in the recovery of an administrative fine, for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;

*c.* not to provide assistance in respect of any tax claim, which is in existence at the date of entry into force of the Convention in respect of that State or, where a reservation has previously been made under subparagraph (a) or (b) above, at the date of withdrawal of such a reservation in relation to taxes in the category in question;

*d.* not to provide assistance in the service of documents for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;

*e.* not to permit the service of documents through the post as provided for in paragraph 3 of Article 17.

2. No other reservation may be made.

3. After the entry into force of the Convention in respect of a Party, that Party may make one or more of the reservations listed in paragraph 1 which it did not make at the time of ratification, acceptance or approval. Such reservations shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the reservation by one of the Depositaries.

4. Any Party which has made a reservation under paragraphs 1 and 3 may wholly or partly withdraw it by means of a notification addressed to one of the Depositaries. The withdrawal shall take effect on the date of receipt of such notification by the Depositary in question.

5. A Party which has made a reservation in respect of a provision of this Convention may not require the application of that provision by any other Party; it may, however, if its reservation is partial, require the application of that provision insofar as it has itself accepted it.

Article 31

*Denunciation*

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to one of the Depositaries.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Depositary.

3. Any Party which denounces the Convention shall remain bound by the provisions of Article 22 for as long as it retains in its possession any documents or information obtained under the Convention.

Article 32

*Depositaries and their functions*

1. The Depositary with whom an act, notification or communication has been accomplished, shall notify the member States of the Council of Europe and the Member countries of OECD of:

*a.* any signature;

*b.* the deposit of any instrument of ratification, acceptance or approval;

*c.* any date of entry into force of this Convention in accordance with the provisions of Articles 28 and 29;

*d.* any declaration made in pursuance of the provisions of paragraph 3 of Article 4 or paragraph 3 of Article 9 and the withdrawal of any such declaration;

*e.* any reservation made in pursuance of the provisions of Article 30 and the withdrawal of any reservation effected in pursuance of the provisions of paragraph 4 of Article 30;

*f.* any notification received in pursuance of the provisions of paragraph 3 or 4 of Article 2, paragraph 3 of Article 3, Article 29 or paragraph 1 of Article 31;

*g.* any other act, notification or communication relating to this Convention.

2. The Depositary receiving a communication or making a notification in pursuance of the provisions of paragraph 1 shall inform immediately the other Depositary thereof.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Convention.

DONE at Strasbourg, the 25th day of January 1988, in English and French, both texts being equally authentic, in two copies of which one shall be deposited in the archives of the Council of Europe and the other in the archives of OECD. The Secretaries General of the Council of Europe and of OECD shall transmit certified copies to each member State of the Council of Europe and Member country of OECD.

Certified a true copy of the original, in English and in French, deposited in the archives of the Council of Europe and the OECD.

Paris, this 12th day of September 1989.

Christian Schricke

*The Legal Counsel,*
*Head of the Legal Directorate*
*of the OECD.*

# ANNEXES

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## ANNEX A

### Taxes to Which the Convention Would Apply

(Paragraph 2 of Article 2 of the Convention)

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## ANNEX B

### Competent Authorities

(Paragraph 1 (d) of Article 3 of the Convention)

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## ANNEX C

### Definition of the Word "National" for the Purpose of the Convention

(Paragraph 1 (e) of Article 3 of the Convention)



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